

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

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|---------------------------|---|-------------------------------------|
| SALVATORE JULIANO SOWELL, | : | Case No. 2:23-cv-1368 |
| | : | |
| Plaintiff, | : | |
| | : | |
| vs. | : | District Judge Edmund A. Sargus |
| | : | Magistrate Judge Karen L. Litkovitz |
| UNITED STATES | : | |
| OF AMERICA, | : | |
| | : | |
| Defendant. | : | |

REPORT AND RECOMMENDATION

Plaintiff, a prisoner at the James A. Karnes Corrections Center, has filed a complaint in this Court. (Doc. 1). Plaintiff failed to pay the filing fee, move for leave to proceed *in forma pauperis*, or sign the documents submitted to the Court. (*See id.* at PageID 14, 21). On May 22, 2023, the undersigned issued a Deficiency Order requiring plaintiff to submit a signed complaint and to pay the filing fee or submit to the Court an *in forma pauperis* application and certified copy of plaintiff's prison trust fund account statement within thirty (30) days. (*See* Doc. 2). Plaintiff was advised that his failure to comply with the Order would result in the dismissal of this case for want of prosecution. (*Id.* at PageID 26).

Plaintiff partially complied with the Deficiency Order by submitting a "Statement of Claim" (Doc. 8), which the Court construed to be plaintiff's signed complaint. On July 26, 2023, the Court issued an Order granting plaintiff an extension of time of thirty (30) days to pay the filing fee or submit to the Court an *in forma pauperis* application and certified copy of plaintiff's prison trust fund account statement. (Doc. 11). To the extent that plaintiff requested waiver of the filing fee, plaintiff's request was denied. (*Id.* at PageID 68-69). Plaintiff was

again advised that “if plaintiff fails to comply with this Order, the Court shall dismiss this case for want of prosecution.” (*Id.* at PageID 69).

To date, more than thirty (30) days after the July 26, 2023 Order, plaintiff has failed to respond to or otherwise comply with the Order.

District courts have the inherent power to *sua sponte* dismiss civil actions for want of prosecution to manage their own affairs so as to achieve the orderly and expeditious disposition of cases.” *Link v. Wabash R.R.*, 370 U.S. 626, 630-631 (1962). *See also Jourdan v. Jabe*, 951 F.2d 108, 109 (6th Cir. 1991). Failure of a party to respond to an order of the court warrants invocation of the Court’s inherent power. *See* Fed. R. Civ. P. 41(b).

It is therefore **RECOMMENDED** that this matter be **DISMISSED** for lack of prosecution.

NOTICE REGARDING OBJECTIONS

Pursuant to Fed. R. Civ. P. 72(b), any party may serve and file specific, written objections to this Report & Recommendation (“R&R”) within **FOURTEEN (14) DAYS** after being served with a copy thereof. That period may be extended further by the Court on timely motion by either side for an extension of time. All objections shall specify the portion(s) of the R&R objected to, and shall be accompanied by a memorandum of law in support of the objections. A party shall respond to an opponent’s objections within **FOURTEEN DAYS** after being served with a copy of those objections. Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).

Date: 9/6/2023


Karen L. Litkovitz
United States Magistrate Judge